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### **Remarks**

In the Office Action, the Examiner indicated that claims 1 through 26 are pending in the application and the Examiner rejected all claims.

### **The Drawing Objection**

On page 2 of the Office Action, the Examiner objected to the drawings and indicated that applicants did not include a proposed drawing correction with the previous response. Applicants did enclose a drawing correction with the previous response, but once again enclose a marked-up version of the drawings with element 242 written in by hand to address the Examiner's objection. If the change is acceptable to the Examiner, applicants will submit corrected drawings upon issuance of a Notice of Allowance.

### **The Present Invention**

The present invention provides a system and method for predicting the likelihood of materialization of pending reservations for the purchase of perishable commodities, which system and method provides for the gathering and analysis of system-wide *reservation information* pertaining to perishable commodities for which reservations for purchase have been made in the past, gathering and analysis of *reservation information* pertaining to perishable commodities for which reservations for purchase are currently pending, and determining, based upon the analysis, the likelihood that a particular pending reservation will actually be purchased or "materialize".

The term "reservation information" (both past and current) is clearly defined in the specification of the present invention as including commodity details, demographic

information, and/or POS information relating to past or current reservations for perishable commodities. All of this *reservation information* is directed to all *reservations* that have been made. Further, they do not focus on a specific flight or other specific commodity; instead, they are related to all available commodities.

The use of system-wide reservation information regarding past reservations is expressly disclosed on pages 16, line 12 through page 17, line 10 of the specification, reprinted as follows:

“Thus, in contrast to the prior art systems, which simply compares the past booking history of, e.g., Flight 250 from Philadelphia to London, the present invention examines *all* flights which have similar characteristics to those of the current reservation, not just Flight 250. For example, assume that over the past two years the reservations for Flight 250 from Philadelphia to London have a materialization rate of 60%. Assume further that the current reservation request for Flight 250 being processed by current reservation processor 316 is for a non-stop, Philadelphia-to-London flight, pleasure travel, two adults and one child, one month from reservation to travel date, payment made by credit card at time of reservation, reservation made by direct contact between the consumer and the airline. Using the present invention, the data warehouse 300 is searched for *all* previous reservations having the same attributes, and the materialization information for *all* past reservations that have the same attributes is evaluated. Based on this information, if it is determined that reservations of this type have a 98% materialization rate, this factor is applied to the current reservation, using the yield management system 314 in a well-known manner. Using the prior art systems and methods, Flight 250 would be overbooked to 140% capacity to cover the historical tendency of this flight to have only a 60% materialization rate; with the present invention, however, each reservation for the current flight will be weighted based on *its* tendency to materialize, and a much more accurate booking will result.”

By gathering and analyzing data relating to the reservations on a global basis in this manner, characteristics of purchasers, commodities, and types of purchases can be analyzed and identified and utilized to characterize reservations generally and the people who made them, rather than specifically characterize one particular commodity (e.g., a particular flight).

**U.S. Patent No. 4,775,936 to Jung**

U.S. Patent No. 4,775,936 to Jung ("Jung") teaches a system which tracks the frequency with which a particular flight experiences overbooking or underbooking, and based on this statistical analysis, increases the point at which that particular flight is considered "closed" to a number greater than 100% of capacity of the aircraft, with the exact percentage greater than 100% being based upon the historical data for that flight. As set forth in the present application, Jung is an example of prior art systems which focus on the history of a particular flight and does not take into consideration the people who made reservations on that flight, characteristics of people who made reservations on that flight, and most particularly, analysis of system-wide data pertaining to people who made reservations for other flights.

**Rejection of Claims 1-2 and 14-15 under 35 U.S.C. §102(b)**

On page 2 of the Office Action, the Examiner maintained the rejection of claims 1-2 and 14-15 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,775,936 to Jung. The Examiner also maintained the rejection of claims 3-13 and 16-26 under 35 U.S.C. § 103.

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In order to support a rejection under 35 U.S.C. § 102, each and every element of the claim must be taught by the cited reference:

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." (*Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987) M.P.E.P. §2131.

Applicant reiterates the previously-provided arguments and continues to rely on them in support of its position that the claimed invention patentably defines over the art cited by the Examiner. However, to provide further clarity, the term "past system-wide reservation information" has been explicitly included in the claims as amended.

As disclosed in the subject application, the present invention looks not at the behavior of passengers with respect to a particular flight (in an example where the commodity is airline tickets) but instead looks at the behavior of all passengers, system-wide, with respect to (a) their making a reservation and (b) their actually fulfilling the reservation. The focus is on system-wide reservations made in the past and the details of the individuals making these reservations, such as their demographic information, the type of travel being conducted, etc.

By contrast, the Jung reference focuses specifically on the actual **flight**. Jung looks at "traffic information" which includes the passenger capacity of the vehicle, the number of passengers scheduled to be transported on the vehicle, the number of passengers actually transported on the vehicle, the number of groups booked on the vehicle, the number of groups actually transported on the vehicle, the number of standby passengers desiring to be transported on the vehicle but not boarded, the number of standby passengers actually

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transported on the vehicle, the number of "10 minute rule" passengers, the number of passengers who could not be transported because the capacity of the vehicle was exceeded, and the number of passengers that voluntarily agreed not to be transported because the vehicle's capacity was exceeded. The entire focus of Jung is on a particular flight and that flight's past history. Nothing in Jung teaches or suggests the analysis of system-wide past reservation information and then the use of this past system-wide reservation information to project the likelihood that current reservations will actually materialize.

This system-wide aspect of the present invention is specifically defined in the specification by the term "past reservation information". Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection of the claims under 35 U.S.C. §102 under Jung.

As noted above, every pending claim in the present application requires the gathering and analysis of past system-wide reservation information, a term which is clearly defined in the specification and which is clearly not taught or suggested in Jung. Neither the addition of Eldering nor Whitesage teaches or suggests this feature, and nothing in Jung suggests modifying its disclosure to include features that are taught in Eldering and/or Whitesage. As noted previously, the Examiner relies upon Eldering for an asserted teaching of demographic information and point-of-sale information in a customer profile system used for advertising. Nothing in Eldering teaches or suggests the use of past system-wide reservation information as taught and claimed in the present invention.

Likewise, as noted previously, the Examiner relies on Whitesage for an asserted teaching of the use of POS information including booking carrier, booking recency, and fare code information in a reservation system. Nothing in Whitesage teaches or suggests

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the use of past system-wide reservation information as defined and claimed in the present invention. Accordingly, the proposed combination of references indicated by the Examiner does not render the remaining claims obvious under 35 U.S.C. § 103. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 3-11, and 16-24 under 35 U.S.C. § 103.


**Conclusion**

The present invention is not taught or suggested by the prior art. The claims and drawings have been amended per the suggestion of the Examiner. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection of the claims. An early Notice of Allowance is earnestly solicited. The Examiner is hereby authorized to charge any fees associated with this Communication to Deposit Account No. 50-0629. A duplicate of this Communication is enclosed for charging purposes.

Respectfully submitted,

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By:

  
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